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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,064	04/12/2002	Jeremy Dennis Bartlett	Q68069	6007

7590 12/17/2004

Sughrue Mion
2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,064

Applicant(s)

BARTLETT, JEREMY DENNIS

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/12/02.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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The disclosure is objected to because of the following informalities: Reference numeral 7 is absent from the drawings. Appropriate correction is required.

Claims 3, 4 and 7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3, lines 1-2, there is no antecedent basis for "the welding". In claim 4, line 2, it is unclear what "next-but-one" means. In claim 7, line 2, "preferably" is unclear.

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Applicant's Disclosure. Applicant admits that the stent shown on the right side of figure 3 and described at the top of the table shown in figure 4 is prior art. The prior art filament ends are fixed together by placing the filaments over one another and placing them adjacent to and substantially parallel to one another. (The filaments are substantially parallel to one another since they are oriented in the same direction as they are helically wound around each other.) Alternatively, it would have been obvious that the filaments are substantially parallel to one another for this reason. As to claim 2, the filaments are biased toward the expanded

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configuration and therefore the respective filaments are biased out of alignment with the adjacent filament. As to claims 3, 4, 6 and 8, the welded bead at the extreme end of the twisted end and described as a "Welded Bead" in figure 4 provides a shoulder in a rearward axial direction due to the bead having a diameter which is larger than the diameter of the wire. As to claim 10, the filaments are parallel to each other at the helical twisted area and are therefore joined at an angle of zero degrees.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Disclosure. The admitted prior art fails to disclose some but not all of the filaments being welded. However, it is old and well known to weld only some of the filaments of a stent in order to, for example, simplify its construction. It would have been obvious to so construct the admitted prior art stent so that it too would have this advantage.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Disclosure in view of Wallsten et al. (5,061,275). The admitted prior art fails to disclose the filaments bending outwardly. However, Wallsten et al. teach that the ends of filaments of a stent, when unloaded, should bend radially outwardly so that it has the advantage that when implanted, it will have a substantially constant diameter. It

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would have been obvious to so shape the admitted prior filaments so that it too would have this advantage. Note that the angle at which the filaments bend increases as the filaments extend toward the ends of the stent as shown in figure 8 of Wallsten et al., for example.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht
12/14/04



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731